A. PURPOSE

To establish the policy and procedure for the Michigan Department of Community Health Institutional Review Board (IRB) review of all human subjects research that is sponsored by, or involves, the department.

B. REVISION HISTORY

None

C. DEFINITIONS

A "human subject" is a living individual about whom an investigator conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information.

"Research" is (1) a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge, or (2) a systematic collection or analysis of data with the intent to generate new knowledge.

Further definitions are in 45 CFR 46.102 and The Michigan Department of Community Health (MDCH) Institutional Review Board (IRB) Procedures.

D. POLICY

The Michigan Department of Community Health Institutional Review Board shall review all human subjects research that is sponsored by the department, or is conducted by or under the direction of any employee or agent of this department in connection with his or her departmental responsibilities, or is conducted by or under the direction of any employee or agent of this department using any property or facilities of this department, or involves the department's non-public information to identify or contact human subjects or prospective subjects. If a research activity involves the use or disclosure of protected health information, as defined by the Health Insurance Portability and Accountability Act (HIPAA), HIPAA privacy policy and procedures must also be considered.

E. PROCEDURE

The director of each bureau, center, or office in the MDCH is responsible to assure that a current member of the MDCH IRB is consulted on any project in his or her jurisdiction that may involve human subjects research.

If the IRB member determines that a proposal is (or could be) human subjects research, the application materials specified in the "The Michigan Department of Community Health (MDCH) Institutional Review Board (IRB) Procedures" shall be submitted to the department's IRB. The IRB must either exempt or approve the activity before it can begin.

The director of each bureau, center, or office in the MDCH that is involved in humans subjects research shall ensure that all IRB requirements are fulfilled, including prompt reporting of modifications to approved protocols, complaints, and adverse events. He or she shall ensure that approved projects are submitted for re-approval prior to the approval expiration date when the project will continue.

F. REFERENCES

The Michigan Department of Community Health (MDCH) Institutional Review Board (IRB) Procedures.
45 CFR Part 46 and 21 CFR Part 50. The Belmont Report. HIPAA.

G. CONTACT

For additional information concerning this policy, contact the MDCH Office of Legal Affairs.

RECOMMENDED BY: _____ **DATE:** 3/13/2006
Deputy Director

APPROVED BY: _____ **DATE:** 3-15-06
Director

Michigan Department of Community Health

Institutional Review Board Procedures

February 2006

Michigan Department of Community Health
Institutional Review Board
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Lansing, MI 48913
Phone 517-241-1928
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www.michigan.gov/irb

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1. Applicability

Michigan Department of Community Health (MDCH) has established an Institutional Review Board (IRB) to help ensure that human subjects research is carried out in accordance with the highest ethical standards and in an environment where all who are involved in the conduct or oversight of human subjects research understand their primary responsibility for protecting the rights, welfare, and well-being of subjects.

MDCH has a Federal Wide Assurance (FWA00007331) with the United States Department of Health and Human Services (HHS) regulations for the protection of human research subjects. This assurance commits MDCH to comply with all requirements of Title 45 Code of Federal Regulations Part 46 (45 CFR Part 46) for all federally sponsored research, **and** also for all other human subjects research involving MDCH, regardless of sponsorship.

IRB review should occur whenever an activity that involves the collection or analysis of data with the intent to generate new knowledge includes an intervention or interaction with living individuals or the collection of, release of, or access to, identifiable private information or biological specimens.

MDCH IRB review is required whenever such activity is:

1) Sponsored by the department, **or**

2) Conducted by or under the direction of any employee or agent of the department in connection with his or her institutional responsibilities, **or**

3) Conducted by or under the direction of any employee or agent of the department using any facility of the department, **or**

4) Involves the use of the department's nonpublic information to identify, **or** contact, human research participants or prospective participants.

MDCH is also considered to engage in human subjects research by virtue of subject accrual, transfer of identifiable information, and/or provision of something of value such as material support (e.g., funds, identifiable data), co-authorship, intellectual property, or credits.

An activity that involves the collection or analysis of data, with the intent to generate new knowledge, but does not include an intervention or interaction with living individuals or the collection of, release of, or access to identifiable private information or biological specimens, does not need IRB review. However, a member of the MDCH IRB should be consulted if there is any doubt about whether or not human subjects are involved.

If human subjects are involved, and the activity includes the collection or analysis of data with the intent to generate new knowledge, it should have IRB review. When MDCH is involved in the activity as outlined above, its IRB is responsible for review, regardless of whether or not another IRB will also review the activity. This is true even if MDCH IRB has a formal agreement with another IRB that allows the other IRB to perform the review. In such cases, MDCH IRB requires copies of the material submitted to the other IRB, the signed approval form from the other IRB, and the completed and signed page one of the MDCH IRB application. MDCH reserves the right to require MDCH IRB review if it disagrees with a decision of the other IRB or has concerns about the adequacy of the other institution's IRB review. MDCH IRB review is binding on any MDCH involvement in the activity.

Some human subjects research may be eligible for exemption, but MDCH IRB must grant the exemption. This exemption is not an exemption from review, but rather an exemption from the need for MDCH IRB approval, and the accompanying requirements, under the provisions of 45 CFR 46.101(b). In addition to activities that may be eligible for exemption from approval, an expedited approval process can be used for many activities that involve minimal risk. Expedited review does not require consideration and voting by the full IRB committee.

No human subjects research can begin before MDCH IRB has reviewed and granted written approval, unless there is a written agreement to allow another IRB to perform the review. Under MDCH's Federal Wide Assurance and 45 CFR 46.112, no institutional office or official may approve research that has not been approved by the MDCH IRB.

2. Health Insurance Portability and Accountability Act (HIPAA) Privacy Board

MDCH IRB serves as the Health Insurance Portability and Accountability Act (HIPAA) privacy board to review requests to use protected health information for research purposes.

3. Scientific Misconduct

MDCH IRB may be asked by the Department's Research Integrity Officer to participate in the inquiry and investigation of allegations of scientific misconduct as provided for in the Department's Policy and Procedures for Responding to Allegations of Scientific Misconduct.

4. MDCH IRB Membership

Members of the MDCH IRB are appointed by the Director to represent the following: Mental Health and Substance Abuse Administration and Office of Drug Control Policy, Medical Services Administration, Public Health Administration, Health Policy, Regulation and Professions Administration, Center for Ethics at Michigan State University, and the general public. The Director designates a Signatory Official for the

MDCH IRB. There is a full-time employee allocated for the IRB administrator position and a full-time employee allocated for the IRB secretary position. The IRB committee members elect the IRB chair.

5. IRB Review of Activities that Could Be Human Subjects Research

It is the responsibility of the director of each Bureau, Center, or Office at MDCH to assure that a member of the MDCH IRB is consulted on any project in his or her jurisdiction that may involve human subjects research. If the IRB member determines that the activity is human subjects research, or could be considered human subjects research, "MDCH IRB Review Application" (Form #DCH-1277) shall be completed and submitted. This form is included in the attachments.

6. Procedures for Exempting Research

Activities that clearly do not involve human subjects can be exempted from IRB review. If there is any question whether human subjects are involved, the researcher is expected to consult a member of the MDCH IRB. A memo from a MDCH IRB member that states that human subjects are not involved constitutes documentation that the activity is exempt from review.

MDCH engages in many activities that involve the systematic collection or analysis of data from or about living persons. Many of these activities are done for the purpose of program evaluation. When the purpose of such activities is to assess the success of an **established** program, and the information gained from the evaluation will be used to improve that program, the activity does not have to be considered research. When an activity is undertaken to test a **new, modified, or previously untested intervention, service, or program** to determine whether it is effective and can be used elsewhere, the activity is research and subject to IRB oversight, if it involves human subjects.

Some human subjects research is eligible for exemption under the provisions of 45 CFR 46.101(b). This is an exemption from MDCH IRB approval and is not an exemption from MDCH IRB review. Only the MDCH IRB can grant this exemption from approval. This decision can be made by the chair or delegated to a committee member for a recommendation that the chair would sign if he or she agrees with the recommendation. In such cases, the IRB records shall document the provisions of 46.101(b) that allow the exemption. Once the chair has granted an exemption, the approval form will be completed and signed by the chair and the study material will be filed and distributed as described later.

Whenever human subjects are involved in an activity that involves the collection and analysis of data with the intent to generate new knowledge, the MDCH IRB should make an official determination of the need for IRB review. This could be that the activity does not constitute research and is exempt from review, but only the IRB should make this determination and not an investigator or Responsible MDCH Employee. This is important because the definition of research is not precise and the MDCH IRB is required

to ensure that any potential involvement of human subjects in research is not undertaken without their review.

7. Procedures for Initial Review of Nonexempt Research

The director of a MDCH Bureau, Center, or Office that is involved in any research involving human subjects (as defined in the first section of this document) shall see that the research is submitted for IRB review and shall be responsible for compliance with MDCH IRB requirements. The MDCH Bureau, Center, or Office director may designate an MDCH employee from their jurisdiction as the Responsible MDCH Employee. The Responsible MDCH Employee should be familiar with the research and can sign the MDCH IRB Review Application for the MDCH Bureau, Center, or Office director.

MDCH IRB requires submission of two copies of the MDCH IRB Review Application form in order to review activities that may involve human subjects research. The application form (in Word format) is designed so that only those sections that apply to the particular activity are completed and those that are not applicable should be deleted. The form also indicates the additional documents that are required to accompany this application form, such as informed consent documents, study protocols, survey instruments, etc. The form may be obtained from the IRB secretary at the address or phone number listed below or from www.michigan.gov/irb.

The required material should be submitted to:

MDCH IRB, Office of Legal Affairs,
7th Floor, Capitol View Building,
201 Townsend Street, Lansing, MI 48913
Phone 517-241-1928
Fax 517-241-1200

The name of the Responsible MDCH Employee must be indicated on page one of the MDCH IRB Review Application form and that employee must also sign the MDCH IRB Review Application form where indicated. This is the person who has the most direct MDCH involvement in the activity and his or her signature is to assure adherence to MDCH IRB requirements for the protection of human subjects. Correspondence between the MDCH IRB and other study investigators or personnel should occur via the Responsible MDCH Employee.

MDCH's Federal Wide Assurance specifically holds the director of each Bureau, Center, or Office in the MDCH responsible for assuring that MDCH IRB review occurs for any human subjects research in his or her jurisdiction.

The MDCH IRB administrator will do an initial review to determine if the required material has been submitted and to recommend the type of review. In many cases, the activity will be eligible for exemption or expedited approval.

A. Expedited Review

Expedited review can only be done for certain kinds of research involving no more than minimal risk, and for minor changes in approved research. It can be used to review either or both of the following:

1) Some or all of the research appearing on the list of categories (attached) the Secretary of HHS has published in the Federal Register (63 FR 60364-60367, November 9, 1998) that meets the criteria for minimal risk, as determined by the reviewer(s).

2) Minor changes in previously approved research during the period (of one year or less) for which approval is authorized.

In such cases, the chair can grant approval, or ask other committee members to review the proposal and make recommendations. Once the chair has granted expedited approval the "Institutional Review Board Approval" (Form #DCH 1280) will be completed and signed by the chair and the study material will be filed and distributed as described later. If a committee member disagrees with a disposition, the proposal will undergo further review by other committee members or the full committee and the Responsible MDCH Employee would be notified to halt activity until further notice. When the chair asks MDCH IRB committee members to review minimal risk activities, these committee members cannot perform this review if they are involved in the activity.

B. Full Committee Review

All human subjects research that involves more than minimal risk must undergo full committee review. In addition, the IRB administrator, the chair, or any committee member can request full committee review if they feel the full committee should be consulted, even if the activity involves only minimal risk. The MDCH IRB has monthly scheduled meetings and can meet on an ad hoc basis if necessary.

In order for a proposal to be considered by the full committee, the study material must be submitted at least 10 days before the monthly meeting. This is to provide sufficient time to distribute the material to committee members for their review.

A full committee review will be considered valid only when the requirements of 45 CFR 46.108(b) are fully met. A quorum, including one nonscientist, must be present at the time of any official action, rather than just at the commencement of the meeting. Substantive clarifications or modifications of the protocol or informed consent that are directly relevant to the determinations required by the IRB under 45 CFR 46.111 require deferral of an IRB decision. A decision for approval can only be made when these modifications have been made and reviewed by the convened full committee. The chair may approve revisions that the convened IRB determines can be made by simple concurrence of the investigator, under the expedited approval process described above.

A project that requires full committee review can only be approved by a majority of those present at a convened meeting. A convened meeting requires that a majority of the IRB members are present, including at least one member whose primary concerns are in non-scientific areas. No committee member may participate in the initial or continuing review of any project in which the member has a conflicting interest, except to provide information requested by the IRB.

C. Criteria for Approval

MDCH IRB shall review all human subjects research in which the department is involved as specified on the first page of these procedures. It has the authority to approve, require modifications to secure approval, or disapprove all covered research activities. It shall require that information given to subjects in the informed consent process is in accordance with the requirements of 45 CFR 46.116. It may require that information in addition to that specifically mentioned in this regulation be given to subjects when, in the IRB's judgment, the information would meaningfully add to the protection of the rights and welfare of subjects. The IRB shall require documentation of informed consent unless it waives this requirement in accordance with 45 CFR 46.117.

In order to approve research, the IRB shall determine that **all** of the following requirements are satisfied:

1) Risks to subjects are minimized:

   a) by using procedures that are consistent with sound research design and that do not unnecessarily expose subjects to risk, and

   b) whenever appropriate, by using procedures already being performed on the subjects for diagnostic or treatment purposes.

2) Risks to subjects are reasonable in relation to anticipated benefits, if any, and the importance of the knowledge that may reasonably be expected to result. In evaluating risks and benefits, the IRB should consider only those risks and benefits that may result from the research. The IRB should not consider possible long range effects of applying knowledge gained in the research as among those research risks that fall within the purview of its responsibility.

3) Selection of subjects is equitable. In making this assessment, the IRB should take into account the purposes of the research and the setting in which the research will be conducted. It should be particularly cognizant of the special problems of research involving vulnerable populations, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons.

4) Informed consent will be sought from each prospective subject or the subject's legally authorized representative in accordance with, and to the extent required by, 45 CFR 46.116.

5) Informed consent will be appropriately documented in accordance with, and to the extent required by, 45 CFR 46.117.

6) When appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of subjects.

7) When appropriate, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.

8) MDCH IRB should recommend that the most recent approval and expiration dates be included on the informed consent document and only the most recent version should be used to obtain consent.

MDCH IRB shall issue "Institutional Review Board Approval" (Form #DCH-1280), to indicate the results of its review.

8. Procedures for Continuing Review of Research

IRB approval can be for a maximum period of one year. Approval may be for a shorter period, but it may not be for more than one year. The approval form further states that prior to the expiration date of the approval, the project must be resubmitted for approval in order for human subjects research to continue. There is no provision for any grace period extending the conduct of research beyond the expiration date of the approval. Review of a change in the protocol is not considered to be a continuation review and does not alter the expiration date. IRB continuation review that occurs before 30 days of the expiration of an annual approval date may keep the original one-year renewal date for the next year's continuation review. For example, if the original expiration date is 12/31/03 and the continuation review and approval occurs as soon as 12/01/03, the new expiration date can be 12/31/04.

The requirements for approval that apply to initial review also apply to the continuing review of a previously approved project. In order to approve the continuation of previously approved research, the IRB requires a completed "Application for Continuation" (Form #DCH 1278) and should include:

1) The number of subjects accrued,

2) A summary of any adverse events and/or unanticipated problems involving risks to subjects or others,

3) A summary of any withdrawal of subjects from the research, or complaints,

4) A summary of any recent literature, interim findings, and amendments or modifications that are relevant to the research,

5) Any relevant multi-center trial reports from the Data Safety Monitoring Boards or Data Monitoring Committees. (Such study-wide reports may satisfy the requirements of #4 without being directly submitted to the local IRB by the author).

6) A copy of the current informed consent documents and any newly proposed one.

The currently approved or proposed consent documents must be reviewed to ensure accuracy and completeness. Any significant new findings that may relate to a participant's willingness to continue in the study must be provided in accordance with HHS regulations 45 CFR 46.116(b)(5). This requirement applies not only during continuation review but whenever such information is learned.

A project that was initially approved by full committee review can only be approved for continuation by full committee review, except for continuing review of research previously approved by the convened IRB as follows:

1) Where:
   a) The research is permanently closed to the enrollment of new subjects;
   b) All subjects have completed all research-related interventions; and
   c) The research remains active only for long-term follow-up of subjects; **or**
2) Where no subjects have been enrolled and no additional risks have been identified by either the IRB or the investigator at any site or from any other relevant source; **or**
3) Where the remaining research activities are limited to data analysis; **or**
4) Continuing review of research, not conducted under an investigational new drug application or investigation device exemption where categories for expedited review do not apply, but the IRB has determined and documented at a convened meeting that the research involves no greater than minimal risk and no additional risks have been identified. The latter determination does not need to be made by the convened IRB.

The full set of materials from the initial review, any subsequent modifications, and the meeting minutes should be reviewed by the chair, or the chair's designee, and made available to any committee member upon request.

When continuing review of a study does not occur prior to the end of the approval period specified by the IRB, expiration of approval is automatic and the research must stop, unless the IRB determines it is in the best interests of individual subjects to continue participating in the research interventions or interactions. Such a stoppage does not have to be reported to the Office for Human Research Protections (OHRP) as a suspension of IRB approval under HHS regulations.

Activities exempted from IRB approval require annual updates to be filed with the IRB. The IRB Administrator will annually issue Form DCH #1279 to the Responsible MDCH Employee designated on the original application.

9. Procedures for Reporting Findings and Actions for the Responsible MDCH Employee and the Institution

The Responsible MDCH Employee must be indicated on the application form and must sign the document in the appropriate area on page one. The corresponding director for the indicated Responsible MDCH Employee is to be copied on IRB decisions in his or her jurisdiction.

Once the MDCH IRB has approved a project, the approval form will be completed and signed by the chair and the study material will be filed. The approval form will be distributed at this time to the Responsible MDCH Employee and the responsible Bureau, Center, or Office director. The Responsible MDCH Employee is responsible for communication with investigators outside of MDCH and to provide them copies of IRB correspondence. Copies of approval forms are distributed to committee members at the next monthly meeting.

10. Procedures for Requiring Continuing Review More Often Than Annually

The full IRB committee will designate those projects that need review prior to one year in order to ensure the protection of the rights and welfare of research subjects. The committee will make a subjective judgment on this need that considers such things as studies with considerable risks or complexity, previous IRB noncompliance by investigators or an institution, anticipated changes in the protocol, or anticipated new developments in the field that could be a concern to study participants.

11. Procedures to Determine Projects That Need Verification From Sources Other Than The Investigator That No Material Changes Have Occurred Since Previous IRB Review

The full IRB committee will designate those projects that need verification from sources other than the investigator that no material changes have occurred since previous IRB review. The committee will make a subjective judgment on this need that considers such things as studies with considerable risks or complexity, previous IRB noncompliance by investigators or an institution, projects identified or suspected (e.g., from continuing review reports or other sources) where material changes occurred without IRB approval, and anticipated changes in the protocol or new developments in the field that could be a concern to study participants. In addition to these criteria, the IRB reserves the right to randomly audit projects to verify that no material changes have occurred in any project since the previous IRB review.

12. Procedures to Ensure Prompt Reporting of Changes in Research Activity

The MDCH IRB Approval Form states that the MDCH IRB must approve any changes to the approved study protocol before they are implemented, except when necessary to eliminate apparent immediate hazards to the subject. This requirement will be included and strongly emphasized in training sessions as well.

Proposed changes shall be reported directly to the IRB chair. Proposed protocol changes must be reviewed and approved at convened meetings according to 45 CFR 46.108(b) unless expedited review is appropriate under the provisions of 45 CFR 46.110(b)(2). The chair will evaluate the proposed changes to determine if they are minor changes that could be approved by expedited review or more substantial changes that require full committee review and approval. The criteria for determining that a revision is minor includes changes in informed consent language that increase or clarify the information provided, changes that involve no increase in risk or imposition on the study participants, and changes that increase the potential or actual benefits to participants without increasing the potential for coercion.

In cases that require full committee review, the chair shall determine if the research should be interrupted until such time as the full committee can review and approve the changes. If the research is interrupted, the chair and the MDCH IRB committee shall make every effort to convene and promptly review the changes. In any case, the changes cannot be implemented without the written approval of the MDCH IRB. MDCH IRB reserves the right to randomly audit projects to ensure that protocol changes are not implemented without its prior review and approval.

MDCH IRB should recommend that each revision to a research protocol be incorporated into the active protocol document and the latest revision date is included in this document on each revised page and the first page of the protocol.

13. Procedures to Ensure Prompt Reporting of Problems Involving Risks to Subjects

MDCH IRB Approval Form states that any unexpected problems or changes in the research environment that could potentially be a human subjects concern must be reported immediately to the MDCH IRB chair. This requirement will be included and strongly emphasized in training sessions as well.

The chair will evaluate the reported problems to determine the gravity of the risk to human subjects and the steps that are needed to address the situation. The chair may need to act immediately without convening the IRB to protect human subjects. In such cases the chair shall notify the full committee about the problem, the immediate steps that were taken, and convene the full committee as soon as possible to review the situation. The chair shall determine if the research should be interrupted until such time as the full

committee has reviewed the facts and agreed on a resolution. The chair shall weigh the risk of interrupting the study against the risk of continuing until the problem is resolved and shall not suspend the research if it results in a greater risk.

14. Procedures to Ensure Prompt Reporting of Noncompliance With 45 CFR Part 46, or IRB Requirements or Determinations

The MDCH IRB application form requires the signature of the Responsible MDCH Employee to assure departmental responsibility for the protection of human research subjects and adherence to MDCH IRB requirements. The MDCH IRB approval form states that any unexpected problems or changes in the research environment that could potentially be a human subjects concern must be reported immediately to the MDCH IRB chair. This requirement will be included and strongly emphasized in training sessions as well.

As soon as the chair receives such a report, he or she will immediately contact the Responsible MDCH Employee to get more information and take the necessary action as described for "Changes In Research Activity" or "Problems Involving Risks To Subjects" above. MDCH IRB can randomly audit research to ensure compliance with regulations and IRB requirements and determinations or to investigate suspected noncompliance. Failure to report noncompliance can result in actions ranging up to termination of the research and restriction of future human research activity.

15. Procedures to Ensure Prompt Reporting of Any Suspension or Termination of IRB Approval

Reported or suspected noncompliance with 45 CFR Part 46, or IRB requirements or determinations will be immediately investigated as described above. If the investigation indicates that the noncompliance constitutes an imminent threat to participants, the chair shall issue a letter requiring suspension of the research. In addition to notifying the Responsible MDCH Employee, the chair will notify the Director of MDCH, the responsible Bureau, Center, or Office Director, and the OHRP (if the research is federally sponsored). The IRB will evaluate the noncompliance and determine what should be done to protect the study participants. This could include both steps to protect them from any potential harm that could result from participation that has already occurred and steps to prevent harm if the study is permitted to resume. The IRB may determine the steps to be taken to allow the study to continue or it may determine that it should be terminated. In addition, the IRB may find that future participation in research by investigators who were noncompliant will be subject to special scrutiny or restricted entirely.

16. Reporting Responsibilities

The Bureau, Center, or Office Director is responsible for ensuring that MDCH IRB review occurs for any human subjects research in his or her jurisdiction. This person is responsible for ensuring that they or the Responsible MDCH Employee promptly report to the MDCH IRB chair:

1) Any unanticipated problems and risks to subjects or others, and

2) Any serious or continuing noncompliance with 45 CFR 46 or the requirements or determinations of the IRB.

The MDCH IRB chair is responsible for notifying the Responsible MDCH Employee and the Bureau, Center, or Office director responsible for any human subjects research in his or her jurisdiction of any suspension or termination of IRB approval.

The Bureau, Center, or Office director responsible for any human subjects research in his or her jurisdiction is responsible for reporting any suspension or termination of IRB approval to all investigators and institutions involved in the research.

The MDCH IRB chair is responsible for reporting:

1) Any unanticipated problems and risks to subjects or others,

2) Any serious or continuing noncompliance with 45 CFR 46 or the requirements or determinations of the IRB, and/or

3) Any suspension or termination of IRB approval

to the appropriate Responsible MDCH Employee and the departmental Bureau, Center, or Office director who is responsible for the research, the MDCH director, any supporting Agency or Department Heads, and OHRP, if federally funded.

17. Range of Possible Actions in Response to Reports of Unanticipated Problems Involving Risks to Subjects or Others or of Serious or Continuing Noncompliance

MDCH IRB shall evaluate the unanticipated risk or noncompliance and determine if the research should be immediately suspended or if suspension would result in more harm than allowing research to continue until the unanticipated risk or noncompliance is resolved. The priority will be to immediately take the necessary steps to protect the participants. Once everything is done in this regard, the IRB will gather evidence to evaluate responsibility and determine what actions are needed to ensure the risk is mitigated and prevent further risk. In the case where there is evidence to indicate responsibility for unanticipated risks, or serious or continuing noncompliance, there are a range of possible actions the IRB can take against the responsible parties. Depending on

the seriousness of the issue and the cooperation of the investigators, the actions can range from working with the involved individuals to resolve the current situation to terminating the research and restricting participation in future human research activities involving the department. Scientific misconduct should be reported to the department's Research Integrity Officer.

18. Conflicts of Interest

The MDCH IRB application form requires a description of any potential conflicts of interest between the researchers and the study sponsors. The IRB will determine if any such conflicts of interest must be revealed to potential study participants or if they constitute an unacceptable risk that would require disapproval of the research.

A MDCH IRB member is not allowed to participate in the initial or continuing review of any project in which he or she has a conflicting interest, except to provide information requested by the IRB. After providing information or answering questions, an IRB member who has a potential conflicting interest should leave the meeting during any subsequent discussion and voting and this should be noted in the IRB meeting minutes.

19. IRB Review in Emergency Situations

According to 45 CFR 46.103(b) and 46.116(f), human subjects research cannot begin, even in an emergency, without prior IRB review and approval. If emergency medical care is initiated without prior IRB review and approval, the patient may not be considered a research subject, the emergency care cannot be considered research, and no data regarding such care can be included in any report of a prospectively conceived research activity.

20. IRB Records and Documentation

1) IRB protocol records must include all the information stipulated by 45 CFR 46.115.

2) The minutes of IRB meetings must include all the information stipulated by 45 CFR 46.115(a)(2) including:

    a) Separate deliberations, actions, and votes for each protocol undergoing initial or continuing review

    b) The vote on all IRB actions including the total number of votes broken down by the number of members voting for, against, and abstaining

3) The documentation of findings shall comply with:

    a) 45 CFR 46.116(d) when approval is granted for a consent procedure that does not include, or that alters, some or all of the required elements of informed consent, or that waives the requirement to obtain informed consent.

b) 45 CFR 46.117(c) when approval is granted to waive the requirements for signed informed consent

c) 45 CFR 46.204-207 when approving research involving pregnant women, human fetuses, or neonate

d) 45 CFR 46.305-306 when approving research involving prisoners

e) 45 CFR 46.404-407 when approving research involving children

The minutes of a full committee review shall document protocol-specific information to justify each of the required considerations involved with a) – e) above. The chair is responsible for such documentation when approval is granted by expedited review.

4) The documentation of risk and approval period shall comply with 45 CFR 46.103(b)(4) and 46.109(e). The minutes of a full committee review shall document the approval period. The chair is responsible for such documentation when approval is granted by expedited review.

5) The retention of IRB records shall comply with 45 CFR 46.115(b) that requires records be kept for at least three years after the completion of the research and that the records be accessible for inspection and copying by an authorized representative of HHS at reasonable times and in a reasonable manner and shall also comply with the MDCH record retention and disposal policy.

21. Other Federal, State, and Local Laws and Protections

All state and local laws that provide more protection to human research participants than 45 CFR Part 46, specifically are not affected by these regulations under the provisions of 46.101(f).

The Michigan Public Health Code grants the Department the power to designate medical research projects under the provisions of MCL 333.2631-33. These provisions provide strong protections for the confidentiality of data and researchers are encouraged to seek such protection when the confidentiality of research data is a concern.

A Certificate of Confidentiality can provide comparable protection at the federal level. The Public Service Act §301(d), 42 U.S.C. §241(d) allows HHS agencies to grant these certificates to persons engaged in biomedical, behavioral, clinical, or other research. The certificate protects the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals.

Both the federal Certificate of Confidentiality and the Michigan Medical Research Project designation protect subjects from compelled disclosure of identifying information, but do not prevent the disclosure of identifying characteristics of research

participants that is mandated by law. Researchers, therefore, are not prevented from disclosing certain information about research participants, such as evidence of child abuse or a participant's threatened violence to self or others. MDCH IRB shall require the consent form to clearly indicate this potential when such situations are anticipated.

22. Special Considerations for Research Involving Children, Prisoners, Pregnant Women, Fetuses, or Neonates

The exemptions at 45 CFR 46.101(b) do not apply to research involving children, prisoners, pregnant women, fetuses, or neonates.

The exemption at 45 CFR 46.101(b)(2), for research involving survey, interview procedures, or observation of public behavior does not apply to research involving children, except for research involving observations of public behavior when the investigator(s) do not participate in the activities being observed.

For research involving pregnant women, fetuses, or neonates, MDCH IRB will adhere to the regulations of 45 CFR 46.201-207, Subpart B. For research involving prisoners, MDCH IRB will adhere to the regulations of 45 CFR 46.301-306, Subpart C. For research involving children, MDCH IRB will adhere to the regulations of 45 CFR 46.401-409, Subpart D.

Attachments

Categories of Research That May Be Reviewed by the Institutional Review Board (IRB) through an Expedited Review Procedure[1]

Applicability

(A) Research activities that (1) present no more than minimal risk to human subjects, and (2) involve only procedures listed in one or more of the following categories, may be reviewed by the IRB through the expedited review procedure authorized by 45 CFR 46.110 and 21 CFR 56.110. The activities listed should not be deemed to be of minimal risk simply because they are included on this list. Inclusion on this list merely means that the activity is eligible for review through the expedited review procedure when the specific circumstances of the proposed research involve no more than minimal risk to human subjects.

(B) The categories in this list apply regardless of the age of subjects, except as noted.

(C) The expedited review procedure may not be used where identification of the subjects and/or their responses would reasonably place them at risk of criminal or civil liability or be damaging to the subject's financial standing, employability, insurability, or reputation, or be stigmatizing, unless reasonable and appropriate protections will be implemented so that risks related to invasion of privacy and breach of confidentiality are no greater than minimal.

(D) The expedited review procedure may not be used for classified research involving human subjects.

(E) The standard requirements for informed consent (or its waiver, alteration, or exception) apply regardless of the type of review - expedited or convened - utilized by the IRB.

(F) Categories one (1) through seven (7) pertain to both initial and continuing IRB review; (8) and (9) apply only to continuing review.

Research Categories

(1) Clinical studies of drugs and medical devices only when condition (a) or (b) is met.

(a) Research on drugs for which an investigational new drug application (21 CFR Part 312) is not required. (Note: Research on marketed drugs that significantly increases the risks or decreases the acceptability of the risks associated with the use of the product is not eligible for expedited review.)

(b) Research on medical devices for which (i) an investigational device exemption application (21 CFR Part 812) is not required; or (ii) the medical device is cleared/approved for marketing and the medical device is being used in accordance with its cleared/approved labeling.

(2) Collection of blood samples by finger stick, heel stick, ear stick, or venipuncture as follows:

(a) from healthy, nonpregnant adults who weigh at least 110 pounds. For these subjects, the amounts drawn may not exceed 550 ml in an 8-week period and collection may not occur more frequently than 2 times per week; or

(b) from other adults and children[2], considering the age, weight, and health of the subjects, the collection procedure, the amount of blood to be collected, and the frequency with which it will be collected. For these subjects, the amount drawn may not exceed the lesser of 50 ml or 3 ml per kg in an 8-week period and collection may not occur more frequently than 2 times per week.

(3) Prospective collection of biological specimens for research purposes by noninvasive means.

Examples: (a) hair and nail clippings in a nondisfiguring manner; (b) deciduous teeth at time of exfoliation or if routine patient care indicates a need for extraction; (c) permanent teeth if routine patient care indicates a need for extraction; (d) excreta and external secretions (including sweat); (e) uncannulated saliva collected either in an unstimulated fashion or stimulated by chewing gumbase or wax or by applying a dilute citric solution to the tongue; (f) placenta removed at delivery; (g) amniotic fluid obtained at the time of rupture of the membrane prior to or during labor; (h) supra- and subgingival dental plaque and calculus, provided the collection procedure is not more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques; (i) mucosal and skin cells collected by buccal scraping or swab, skin swab, or mouth washings; (j) sputum collected after saline mist nebulization.

(4) Collection of data through noninvasive procedures (not involving general anesthesia or sedation) routinely employed in clinical practice, excluding procedures involving x-rays or microwaves. Where medical devices are employed, they must be cleared/approved for marketing. (Studies intended to evaluate the safety and effectiveness of the medical device are not generally eligible for expedited review, including studies of cleared medical devices for new indications.)

Examples: (a) physical sensors that are applied either to the surface of the body or at a distance and do not involve input of significant amounts of energy into the subject or an invasion of the subject's privacy; (b) weighing or testing sensory acuity; (c) magnetic resonance imaging; (d) electrocardiography, electroencephalography, thermography, detection of naturally occurring radioactivity, electroretinography, ultrasound, diagnostic infrared imaging, doppler blood flow, and echocardiography; (e) moderate exercise, muscular strength testing, body composition assessment, and flexibility testing where appropriate given the age, weight, and health of the individual.

(5) Research involving materials (data, documents, records, or specimens) that have been collected, or will be collected solely for nonresearch purposes (such as medical treatment or diagnosis). (NOTE: Some research in this category may be exempt from the HHS regulations for the protection of human subjects. 45 CFR 46.101(b)(4). This listing refers only to research that is not exempt.)

(6) Collection of data from voice, video, digital, or image recordings made for research purposes.

(7) Research on individual or group characteristics or behavior (including, but not limited to, research on perception, cognition, motivation, identity, language, communication, cultural beliefs or practices, and social behavior) or research employing survey, interview, oral history, focus group, program evaluation, human factors evaluation, or quality assurance methodologies. (NOTE: Some research in this category may be exempt from the HHS regulations for the protection of human subjects. 45 CFR 46.101(b)(2) and (b)(3). This listing refers only to research that is not exempt.)

(8) Continuing review of research previously approved by the convened IRB as follows:

(a) where (i) the research is permanently closed to the enrollment of new subjects; (ii) all subjects have completed all research-related interventions; and (iii) the research remains active only for long-term follow-up of subjects; or

(b) where no subjects have been enrolled and no additional risks have been identified; or

(c) where the remaining research activities are limited to data analysis.

(9) Continuing review of research, not conducted under an investigational new drug application or investigational device exemption where categories two (2) through eight (8) do not apply but the IRB has determined and

documented at a convened meeting that the research involves no greater than minimal risk and no additional risks have been identified.

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[1] An expedited review procedure consists of a review of research involving human subjects by the IRB chairperson or by one or more experienced reviewers designated by the chairperson from among members of the IRB in accordance with the requirements set forth in 45 CFR 46.110.

[2] Children are defined in the HHS regulations as "persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law of the jurisdiction in which the research will be conducted. 45 CFR 46.402(a).

Source: 63 FR 60364-60367, November 9, 1998.